

§ 355.3

Subscribed and sworn to before me, a Notary Public in and for the State and County aforesaid, this ____ day of ____ 19__.

(Notary Public)

My Commission expires:

PENALTY FOR FALSE STATEMENT: A fine or imprisonment, or both, are provided for violation of the proscriptions contained in 18 U.S.C. 1001 (see also 18 U.S.C. 286, 287).

(Approved by the Office of Management and Budget under control number 2133-0012)

[G.O. 89, Rev., 35 FR 11558, July 18, 1970, as amended at 35 FR 11686, July 22, 1970; 47 FR 25530, June 14, 1982]

§ 355.3 Criteria to be applied in support of stock data in affidavit.

(a) The same criteria should be observed in obtaining information to be furnished for stockholders named (direct ownership of required percentage of shares of stock of each class or series) in the Affidavit as those observed for the primary corporation. If, on the other hand, the "fair inference rule" is applied with respect to stock ownership (see *Collier Advertising Service, Inc. v. Hudson River Day Line*, 14 Fed. Supp. 335), the extent of U.S. citizen ownership of stock should be ascertained in the requisite percentage (65 percent for foreign operation and 95 percent for coastwise operation) in order that the veracity of the statutory statements made in the Affidavit (paragraph 5) may be relied upon by the Maritime Administration.

(b) When applying the fair inference rule (where there are more than 30 stockholders, except where one or more of such number actually owns the controlling or 75 percent interest) in order to prove U.S. citizen ownership in the required percentages (1) for foreign operation, 65 percent of the shares of stock of each class or series must be shown to be held by persons with registered addresses within the United States to prove that 51 percent or controlling interest is vested in citizens of the United States and (2) for coastwise operation, 95 percent of the shares of stock of each class or series must be shown to be held by persons having registered addresses within the United

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States to prove that 75 percent of the interest in the corporation is vested in citizens of the United States.

(c) If the primary corporation is consecutively owned by several "parent" corporations (holders of 100 percent of the stock of each or all classes or series of stock issued and outstanding), the facts should be given in proper sequence either by chart or in narrative form, revealing the facts of stock ownership. The information with respect to the ultimate parent should include data relative to the basis upon which controlling or 75 percent (depending upon whether the primary corporation operates in the domestic or foreign commerce) is established, together with the names of the owners of record or beneficial owners of 5 percent or more of each class or series of stock, if more than one class or series, and statement that such owners are citizens of the United States. In any case where different classes or series of stock exist, each class or series shall be treated depending upon whether "closely held" or "publicly held," individually in applying the fair inference rule, if applicable, or giving the relevant information with respect to United States citizens owning of record 51 percent or 75 percent of the interest.

§ 355.4 Changes in citizenship data.

It shall be incumbent upon the parties filing affidavits under this part to apprise the Maritime Administration promptly in writing relative to changes in data last furnished with respect to officers, directors, and stockholders holding 5 percent or more of the issued and outstanding stock of each class or series, together with statements concerning the citizenship status thereof.

§ 355.5 Additional material.

If additional material is determined to be essential to clarify or support the evidence of U.S. citizenship, such material shall be furnished by the aforementioned primary corporation upon request by the Maritime Administration.